

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MYRA S. SMITH,

Plaintiff,

-against-

CITY OF NEW YORK,

Defendant.

No. 1:23-cv-08229 (JLR) (RWL)

ORDER

JENNIFER L. ROCHON, United States District Judge:

On October 1, 2024, Magistrate Judge Lehrburger issued a Report and Recommendation (the “R&R”), recommending that Plaintiff’s motion for preliminary injunctive relief be denied. Dkt. 38. No timely objection was filed by Plaintiff and on October 25, 2024, the Court issued an order adopting the R&R and denying Plaintiff’s motion for preliminary injunctive relief. Dkt. 40.

Subsequently, on October 28, 2024, the Court was notified of a request from Plaintiff for an extension of time to object to the R&R, which had been received by the courthouse mailroom on October 22, 2024 but docketed on October 28, 2024. *See* Dkt. 42. Plaintiff, who is *pro se* and receives service of court filings by mail, requests an extension of time due to issues with the postal service. *Id.* at 2. Plaintiff states that between October 4 and 10, 2024, a physical issue occurred with her building’s mailbox; she includes a copy of a complaint she submitted to the United States Postal Service on October 12, 2024. *Id.* at 2, 5-8. Plaintiff further notes that she understands that several postal workers in her area were observing religious holidays around the same time period, causing mail delivery in her area to be generally delayed. *Id.* at 3. Plaintiff states that due to these issues, she did not receive the R&R until after October 14, 2024. *Id.* at 3.

In light of this explanation from the *pro se* Plaintiff, which the Court finds credible, the Court is willing to afford Plaintiff an extension of time to respond to the R&R and to reconsider its prior order adopting the R&R. *See* Fed. R. Civ. P. 54(b) (“[A]ny order or other decision, however designated, that adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties does not end the action as to any of the claims or parties and may be revised at any time before the entry of a judgment adjudicating all the claims and all the parties’ rights and liabilities.”); *Chartis Segueros Mex., S.A. de C.V. v. HLI Rail Rigging, LLC*, No. 11-cv-03238 (ALC), 2015 WL 545565, at *2 (S.D.N.Y. Feb. 9, 2015) (“a district court . . . possess the inherent authority to *sua sponte* reconsider its own interlocutory orders before they become final. *Sua sponte* reconsideration is appropriate where there is a need to correct a clear error or prevent manifest injustice, there is an intervening change in the applicable law, or new evidence is available.” (citations omitted)).

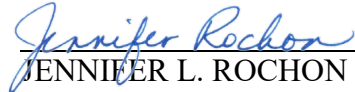
Plaintiff is ORDERED to file her objections to the R&R by November 27, 2024. If the Court timely receives Plaintiff’s objections, it will reconsider its prior order adopting the R&R in light of Plaintiff’s objections. For clarity, the Court notes that it received a document entitled “request for injunction” on the same day that it received Plaintiff’s request for additional time to respond to the R&R. Dkt. 41. At present, the Court does not understand this document to constitute Plaintiff’s objections to the R&R, but will consider it as such if Plaintiff provides confirmation to the Court that she intends Dkt. 41 to be her objection to the R&R.

Plaintiff is further advised that her deadline to respond to Defendant’s motion to dismiss was October 7, 2024. *See* Dkt. 39. Judge Lehrburger *sua sponte* granted her an extension of time to oppose the motion up to and including November 14, 2024. *Id.* Plaintiff is also reminded of that deadline.

The Clerk of Court is respectfully directed to mail a copy of this order, a copy of Dkt. 41, and a copy of the docket report summary to Plaintiff.

Dated: October 30, 2024
New York, New York

SO ORDERED.



JENNIFER L. ROCHON
United States District Judge